

**BEFORE THE ARIZONA BOARD OF
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

IN THE MATTER OF:)	Case No. 2702
)	
DALE WHEELAND, D.O.)	FINDINGS OF FACT,
Holder of License No. 2018 for the)	CONCLUSIONS OF LAW
practice of osteopathic medicine)	AND BOARD ORDER FOR
in the State of Arizona.)	PROBATION
)	

INTRODUCTION

This matter came before the Board of Osteopathic Examiners in Medicine and Surgery (hereafter "Board") for consideration and decision at the Board's public meeting held on December 9, 2000. Pursuant to its statutory authority at A.R.S. § 32-1855(E), the Board held an Investigative Hearing on December 9, 2000. During the course of these proceedings, Dale Wheeland, D.O. (hereinafter "Respondent") was present and not represented by legal counsel.

Based upon Respondent's testimony and documentary evidence submitted to the Board, the board issues the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent is a licensee of the Board and the holder of License No. 2108.
2. On or about October 20, 1999 the Board received information showing that Respondent was prescribing narcotics, sedatives and muscle relaxants over the past seven years to a patient, who allegedly died from "oxycodone toxicity". This allegation of overprescribing resulted in the Board's opening Case No. 2702.

3. At the Board's December 9, 2000 open meeting, the Board heard testimony from Respondent and reviewed all documentation on the allegation. The Board found that Respondent inappropriately prescribed narcotics, sedatives and muscle relaxants to patient, DG, over the past seven years. Respondent also inappropriately wrote prescriptions for patient, D.G., in the name of patient's sister and mother and that Respondent did not maintain accurate or complete records in this matter.

4. In public session the Board voted on December 9, 2000 that Respondent's license should be placed on a probationary status for restriction of his prescribing privileges, continuing medical education and random chart review and authorized the Board's Executive Director to sign and issue a Board Order regarding Respondent that follows hereinafter.

CONCLUSIONS OF LAW

1. Pursuant to Arizona Revised Statutes § 32-1800, et seq., the Arizona Board of Osteopathic Examiners in Medicine and Surgery has subject matter and personal jurisdiction in this matter.

2. The Board has the authority to enter into an order for disciplinary action against a license, pursuant to A.R.S. § 41-1063, A.R.S. § 32-1855 and A.R.S. § 32-1861(D).

3. The Respondent engaged in unprofessional conduct as defined in A.R.S. § 32-1854 by violating federal and state statutes and regulations:

(5) Prescribing, dispensing or administering controlled substances or prescription only drugs for other than accepted therapeutic purposes.

(6) Engaging in the practice of medicine in a manner that harms or may harm a patient or that the Board determines falls below the community standard.

- (15) Knowingly making any false or fraudulent statement, written or oral, in connections with the practice of medicine except as the same may be necessary for accepted therapeutic purposes.
- (19) Any conduct or practice contrary to recognized standards of ethics of the osteopathic medical profession.
- (37) Violating a federal law, a state law or a rule applicable to the practice of medicine.
- (38) Prescribing or dispensing controlled substances or prescription-only medications without maintaining adequate and appropriate patient records.
- (40) Any conduct or practice that endangers a patient's or the public's health or may reasonably be expected to do so.

ORDER

Pursuant to the authority vested in the Board, **IT IS HEREBY ORDERED THAT:**

1. Dale Wheeland, D.O. ("Respondent") shall comply with the following terms and conditions of this agreement:
2. Respondent's Board License Number 2108 will be placed under **PROBATION** for five (5) years and he shall comply with the terms and conditions of probation as set forth herein:
3. From the date of this Order, Respondent shall be RESTRICTED from prescribing any controlled substances and narcotic analgesics. After completion of the approved continuing medical education listed in this Order, Respondent may request, in writing, to appear before the Board and request to have his prescription authority reinstated.
4. From the date of this Order, Respondent shall obtain thirty (30) hours of continuing medical education ("CME") in the following areas: appropriate prescribing, pain management, which includes acute, chronic and headache pain. Respondent shall obtain eight (8) hours of CME in addictionology and four (4) hours in the area of medical ethics. The CME's shall be approved in

advance by the Board's Executive Director or designee. The CME requirement of this Board order is in addition to the CME requirement that Respondent needs to maintain his osteopathic medical license in Arizona.

5. Respondent shall undergo random chart reviews by the Board's staff or designee. The random chart review shall consist of a minimum of ten charts done on a quarterly basis. The chart reviews will insure appropriate prescribing and whether or not pain contracts are in use.

6. In the event Respondent moves and ceases to practice medicine in Arizona, he shall give written notice to the Board of his new residence address within twenty (20) days of moving; and, the terms and duration of probation may be stayed by the Board until Respondent returns to practice medicine in Arizona.

7. Respondent shall continue to meet all licensing requirements such as continuing medical education and renewal requirements including applicable fees pursuant to A.R.S. § 32-1825.

8. Respondent's failure to comply with the requirements of this Order shall constitute unprofessional conduct as defined at A.R.S. § 32-1854(26), as amended, and may be considered as grounds for further disciplinary action (e.g., suspension or revocation of license) in the event that Respondent fails to comply with any of the requirements of this Order.

ISSUED this 15th day of December, 2000.

ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By: Ann Marie Berger
Ann Marie Berger, Executive Director
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Served by personal service or
sending U.S. mail
this 18 day of December, 2000 to:

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Copy mailed this 18 day of December, 2000 to:

Blair Driggs
Assistant Attorney General
Office of the Attorney General
1275 W. Washington
Phoenix AZ 85007 (w/enclosure)

Arizona Board of Pharmacy
5060 N. 19th Ave., Suite 101
Phoenix AZ 85015

Drug Enforcement Administration
Attention: Diversion Section
3010 N. 2nd St
Phoenix AZ 85012

Am to Boyd